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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,117	07/07/2003	Barin Geoffry Haskell	APLE.P0035	9128
48947	7590	06/17/2005	EXAMINER	
STATTLER, JOHANSEN, AND ADELI LLP 1875 CENTURY PARK EAST SUITE 1050 CENTURY CITY, CA 90067			AN, SHAWN S	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/615,117	HASKELL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Shawn S. An	2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 9 is/are rejected.
- 7) Claim(s) 2-8 and 10-16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/22/04, 8/12/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Keesman et al (5,691,770).

**Regarding claim 1,** Keesman et al discloses a method of controlling rate distortion in a video compression, and encoding system, comprising:

selecting a distortion value D (D(b)) near a desired distortion value (col. 1, lines 52-54);

determining a quantizer value Q (alpha1) using the distortion value D (Fig. 1); calculating a Lagrange multiplier lamda using the Q value (col. 4, lines 21-48);

and

encoding a pixel block using the Lagrange multiplier lamda and the Q value (Fig. 2, elements 3-4 and Lagrange multiplier lamda).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keesman et al (5,691,770) in view of Sriram et al (6,414,992 B1).

**Regarding claim 9,** Keesman et al discloses all of the claimed limitations with the exception of a computer readable medium containing a set of computer instructions for implementing a method of controlling rate distortion in a video compression and encoding system as discussed above.

However, it is conventionally well known to utilize a computer readable medium for implementing a video compression and encoding system.

Furthermore, Sriram et al teaches a computer based encoding system (Fig. 1) comprising a Lagrange multiplier technique to improve the video encoding process (col. 8, lines 10-19).

Therefore, it would have been obvious to a person of ordinary skill in the relevant art employing a method of controlling rate distortion in a video compression and encoding system as taught by Keesman et al to incorporate Sriram et al's teaching as above so that a computer readable medium containing a set of computer instructions implements a method of controlling rate distortion in a video compression and encoding system as discussed above, thereby saving manufacturing/operating costs associated with the expensive hardware.

#### ***Allowable Subject Matter***

5. Claims 2-8 and 10-16 are objected to as being dependent upon a rejected base claims 1 and 9, respectively, but would be allowable:

if either one of claim 2 or claim 5 is rewritten in independent form including all of the limitations of the base claim 1 and any intervening claims; and

if either one of claim 10 or claim 13 is rewritten in independent form including all of the limitations of the base claim 9 and any intervening claims.

**Dependent claims 2-8 and 10-16,** recite novel features, wherein the art of record fails to anticipate or make obvious the novel features as specified.

Accordingly, if the amendments are made to the claims listed above, and if rejected claims are canceled, the application would be placed in condition for allowance.

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***Conclusion***

6. The prior art made of record is considered pertinent to applicant's disclosure.

A) Ribas-Corbera et al (6,111,991), Apparatus and method for optimizing quantizer values in an image encoder.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Shawn S An whose telephone number is 571-272-7324.

8. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SHAWN AN  
PRIMARY EXAMINER

6/10/05